

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 18-CR-20489

v.

Honorable Thomas L. Ludington

JAMES D. PIERON, JR.,

Defendant.

**ORDER DIRECTING SUPPLEMENTAL BRIEFING REGARDING DEFENDANT'S
MOTIONS FOR A JUDGMENT OF ACQUITTAL AND A NEW TRIAL AND
DIRECTING RE-NOTICING OF THE MOTION HEARING**

On March 7, 2019, a jury convicted Defendant James D. Pieron, Jr. of one count of tax evasion, in violation of 26 U.S.C. § 7201. ECF No. 47. On May 15, 2019, Defendant timely moved for a judgment of acquittal and, alternatively, for a new trial. ECF Nos. 66, 68. Timely response and reply briefs were filed. ECF Nos. 113, 118, 119. An in-person motion hearing is scheduled for October 21, 2020. ECF No. 166. For the reasons below, the parties will be directed to file supplemental briefings regarding Defendant's motions, and the in-person motion hearing will be re-noticed as a Zoom video hearing.

I.

A.

On July 18, 2018, a federal grand jury indicted Defendant, charging him with one count of tax evasion in violation of 26 U.S.C. § 7201. ECF No. 1. After several months of motion practice, the parties proceeded to trial. The jury was empaneled on February 28, 2019. ECF No. 51. On March 7, 2019, the jury returned a guilty verdict. ECF No. 47. Shortly after trial, Defendant moved

for a judgment of acquittal and, alternatively, for a new trial. ECF Nos. 66, 68. Defendant argued that based on the Government's evidence at trial, no reasonable juror could conclude that he committed an affirmative act of evasion within the statutory period. Defendant further argued that he is entitled to a new trial based on (1) the failure to instruct the jury on the statute of limitations defense, (2) the ineffective assistance of his trial counsel, and (3) the manifest weight of the evidence. Timely response and reply briefs were filed. ECF Nos. 113, 118, 119.

B.

On April 10, 2019, the parties appeared in a status conference to discuss any anticipated issues with the United States Sentencing Guidelines. After the status conference, the Government was directed to file a Tax Loss Assessment, and Defendant was directed to file a response. ECF No. 59. Over the following year, Defendant and his businesses were examined through two rounds of supplemental briefing and five days of evidentiary hearings held between November 2019 and February 2020. In the process, this Court heard evidence from several witnesses regarding Defendant's personal background, the structure and operation of his businesses, and his involvement with JDFX. Finally, on June 9, 2020, the Government's Tax Loss Assessment was adopted. ECF No. 162.

C.

The parties will be directed to file supplemental briefing addressing the extent to which the evidence heard since May 2019 impacts Defendant's motions.

II.

Furthermore, the current in-person motion hearing will be re-noticed as a Zoom video hearing. A hearing on Defendant's motions was originally set for July 17, 2019. ECF No. 69. The hearing was eventually reset for March 30, 2020 but repeatedly adjourned because of the COVID-

19 pandemic. ECF Nos. 158, 159, 160. On June 8, 2020, a Zoom video hearing for the motions was scheduled for July 15, 2020, but, on the eve of the hearing, Defendant objected and requested that the hearing be in-person. ECF No. 163.

An in-person hearing is currently set for October 21, 2020. ECF No. 166. However, due to the ongoing COVID-19 pandemic, the courtroom will not be ready for in-person hearings by that date. Furthermore, there is no clear timeline as to when an in-person motion hearing will be feasible. Accordingly, the hearing will be rescheduled as a Zoom hearing for a later date. If there is an objection to use of the video technology, then the hearing will be cancelled indefinitely. Oral argument would be helpful, but the Court can decide the motions on the papers after supplemental briefing, if necessary.

III.

Accordingly, it is **ORDERED** that the parties are **DIRECTED** to file supplemental briefing addressing the extent to which the evidence heard since May 2019 impacts Defendant's motions **on or before November 9, 2020.**

It is further **ORDERED** that the in-person hearing set for October 21, 2020 shall be reset for **November 16, at 10:00 A.M. by Zoom.**

Dated: October 7, 2020

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge